

The Treasury

Overseas Investment in Forestry Information Release

September 2019

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Where this is the case, the relevant sections of the Act that would apply have been identified.

Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to sections of the Act under which information has been withheld:

- [1] 6(a) - to avoid prejudice to the security or defence of New Zealand or the international relations of the government
- [2] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [3] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
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- [6] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

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Treasury Report: Cabinet Legislation Paper - Supplementary Order Paper on the Inclusion of Forestry Rights in Overseas Investment Screening Regime

Date:	15 March 2018	Report No:	T2018/649
		File Number:	IM-5-1-2

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Grant Robertson)	Note the contents of this report	None.
Associate Minister of Finance (Hon David Parker)	Sign the attached Cabinet Paper and Cabinet Submission Form Lodge this with the Cabinet Office Refer to relevant Ministers	By 10:00am Friday 16 March 2018

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
[4]	Analyst, Overseas Investment	[6]	N/A (mob) ✓
Thomas Parry	Team Leader, Overseas Investment	[6]	[6]

Actions for the Minister's Office Staff (if required)

Return the signed report to Treasury.

Lodge the attached Cabinet Paper with the Cabinet Office by 10:00am Thursday 15 March.

Refer a copy of the report to the Deputy Prime Minister, the Minister for Crown/Maori Relations, Minister for Māori Development, Minister of Forestry, Minister for Climate Change and the Minister for Land Information.

Note any feedback on the quality of the report

Enclosure: Yes

Treasury Report: Cabinet Legislation Paper - Supplementary Order Paper on the Inclusion of Forestry Rights in Overseas Investment Screening Regime

Executive Summary

This report seeks your signature on the attached revised Cabinet Legislation Paper and Cabinet Submission Form, and agreement to lodge the revised paper, Supplementary Order Paper (SOP) to the Overseas Investment Amendment Bill and associated Regulations, with the Cabinet Office by 10:00am on Friday 16 March 2018.

The Parliamentary Counsel Office will facilitate the lodgement of the SOP and associated Regulations with the Cabinet Office.

On 9 March 2018, you were provided with a draft Legislation Paper and associated materials to enable Ministerial consultation [T20178/549 refers]. These materials have since been updated to reflect the consultation discussions and further technical refinements from officials.

Agreement for lodgement needs to be sought from the Minister of Finance, as portfolio Minister. We understand that this agreement has been given and this is noted in the Cabinet Legislation Paper.

Recommended Action

We recommend that you:

- a **note** on 5 March 2018, Cabinet agreed to introduce a special test for overseas investment in forestry under the Overseas Investment Act 2005, and the inclusion of Statutory Forestry Rights and forestry-related profit-a-prende be subject to OIA screening if the investor and investor's associates are acquiring 1,000 hectares or more of forestry rights per calendar year;
- b **note** that on 9 March 2018, you were provided with a draft Legislation paper, Supplementary Order Paper to the Overseas Investment Amendment Bill and associated Regulations which have now been updated;
- c **note** that the Parliamentary Counsel Office will facilitate the lodgement of the Supplementary Order Paper to the Overseas Investment Amendment Bill and associated Regulations with the Cabinet Office;
- d **sign** the attached Cabinet Paper and Cabinet Submission Form, and lodge these documents, with the Cabinet Office by 10:00am on Friday 16 March 2018;
- e **refer** this report to the Deputy Prime Minister, the Minister for Crown/Maori Relations, Minister for Māori Development, Minister of Forestry, Minister for Climate Change and the Minister for Land Information.

Thomas Parry
Team Leader, Overseas Investment

Hon David Parker
Associate Minister of Finance

Treasury Report: Treasury Report: Cabinet Legislation Paper - Supplementary Order Paper on the Inclusion of Forestry Rights in Overseas Investment Screening Regime

Purpose of Report

1. This report seeks your signature on the attached revised Cabinet Legislation Paper and Cabinet Submission Form, and agreement to lodge the revised paper, Supplementary Order Paper to the Overseas Investment Amendment Bill and associated Regulations, and the Departmental Disclosure Statement with the Cabinet Office by 10:00am on Thursday 15 March 2018.

Changes to the Paper

2. On 9 March 2018, you were provided with a draft Legislation Paper and associated materials to enable Ministerial consultation [T20178/549 refers]. These materials have since been updated to reflect the consultation discussions, your feedback and further technical refinements from officials.
3. On 12 March 2018, a report was circulated to the group of Ministers with Power to Act on changes to overseas investment in forestry seeking agreement to three matters of detail [T2018/610 refers]. Two of these matters concerned the non-forestry profits-à-prendre. The Cabinet Legislation paper has been drafted on the basis of agreement to the following points:
 - a. Definition of profits-à-prendre does not include minerals, and only applies where the profit relates to the principal or exclusive use of the area of land where the profit-à-prendre exists
 - b. Uniform land area threshold of 5 hectares for non-forestry profits-à-prendre applies, rather than a smaller threshold such as 0.4 hectares as elsewhere in the OIA.
4. The third matter of detail covered in the 12 March paper concerned the screening test to be applied to land that is intended to be converted to forestry use. Following discussions between Ministers, a subsequent report was produced on 14 March which sought agreement to a new proposal for how this land should be treated [T2018/648 refers]. The proposal clarified that:
 - c. All forestry rights will be allowed to use the new checklist test. This includes those for planting and harvesting and maintaining
 - d. Freehold and leasehold land that has already been converted into forestry can go through the new checklist test
 - e. Freehold and leasehold land that is intended to be converted into forestry must go through a modified benefit test with a different “counterfactual analysis” so that the benefits of the forestry investment would be measured against the future intended use of the land by the current owner, and a pre-approval process will be available.

5. The Cabinet Legislation paper and SOP have been drafted on the basis that the group of Ministers with power to act will approve these proposals.
6. We wish to draw your attention to the updated text in the section '*screening requirements for conversion of land into a forest*' from paragraph 22. Updated text on the pre-approval process has been included.
7. Additional text has been added to note that on 12 March Cabinet confirmed that the Minister for Crown/ Māori Relations, in consultation with the Associate Minister of Finance (Hon David Parker), will be undertaking further consultation with iwi and Māori groups on the proposed changes [CAB-18-MIN-0084 refers]. The paper also states that if through the consultation process any unintended consequences on Māori rights and/or interests are identified, that in the Committee of the Whole House stage, we will strive to address those unintended consequences.
8. The Ministry of Foreign Affairs and Trade have included the following text:

[1,5]